

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

PAUL EUGENE CHERGI,

Plaintiff,

VS.

VERIZON COMMUNICATIONS,
et al.,

Defendants.

NO. 7:11-CV-166 (HL)

ORDER

Plaintiff **PAUL EUGENE CHERGI**, an inmate at Valdosta State Prison (“VSP”), has filed a motion to proceed *in forma pauperis* on appeal (Doc. 11) from the Court’s December 14, 2011 Order (Doc. 4) that dismissed Plaintiff’s *pro se* civil rights complaint under 42 U.S.C. § 1983. In the Court’s best judgment, an appeal from its Order cannot be taken in good faith. 28 U.S.C. § 1915(a)(3). As noted in the Court’s Order, Plaintiff’s complaint was factually frivolous.¹ Accordingly, having been carefully considered, Plaintiff’s motion to proceed IFP on appeal is hereby **DENIED**.

If Plaintiff wishes to proceed with his appeal, he must pay the entire \$455 appellate filing fee. Because Plaintiff has stated that he cannot pay the \$455 immediately, he must pay using the partial payment plan described under 28 U.S.C. § 1915(b). Pursuant to section 1915(b), the prison

¹ The Court also denied as moot Plaintiff’s motion to amend his complaint, which was received after the Court’s December 14, 2011 Order (Doc. 9). The Court has additionally considered the allegations in Plaintiff’s motion to amend and concludes that such allegations would not alter the result in this case.

account custodian where plaintiff is incarcerated shall cause to be remitted to the Clerk of this Court monthly payments of 20% of the preceding month's income credited to Plaintiff's account until the \$455 appellate filing fee has been paid in full. Twenty percent of any deposits into the prisoner's account shall be withheld by the prison account custodian who, on a monthly basis, shall forward the amount withheld from the prisoner's account to the Clerk of this Court each time the amount in the account exceeds \$10 until the total filing fee of \$455 has been paid. Checks should be made payable to "Clerk, U.S. District Court." The Clerk of Court is directed to send a copy of this order to the business manager at VSP.

Also before the Court is Plaintiff's motion for appointment of counsel (Doc. 12). In deciding whether legal counsel should be provided, the Court typically considers, among other factors, the merits of the Plaintiff's claim and the complexity of the issues presented. *Holt v. Ford*, 682 F.2d 850, 853 (11th Cir. 1989). Given the lack of merit in Plaintiff's case, the appointment of counsel on appeal does not seem to be justified. Accordingly, Plaintiff's motion for counsel is **DENIED**.

SO ORDERED, this 7th day of February, 2012.

s/ *Hugh Lawson*
HUGH LAWSON
UNITED STATES DISTRICT JUDGE

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